

**Law Department**

April 16, 2001

APR 17 2001

Via Overnight Service

Deena Sheppard-Johnson  
Enforcement Specialist  
US EPA Region 5  
Remedial Enforcement Support Section, SR-6J  
77 West Jackson Boulevard  
Chicago, IL 60604-3507

312-886-7048

Thomas Nash  
Assistant Regional Counsel  
US EPA Region 5  
Office of Regional Counsel, C-14J  
77 West Jackson Boulevard  
Chicago, IL 60604-3507

312-353-0552

RE: The Chemical Recovery Systems Site, Elyria, OH  
Request For Information

Dear Ms. Sheppard-Johnson and Mr. Nash:

On behalf of my client, Dow Corning Corporation, I have reviewed your letter of March 2, 2001, received by Dow Corning's Carrollton, KY facility on March 8, 2001. I have also reviewed the 17 pages of Dirty Inventory listing provided by Mr. Nash. I am responding to the General Notice of Liability only today. A response to your Request for Information will be sent separately within the next 20 days.

As the Agency is well aware, Dow Corning Corporation filed for Chapter 11 protection under the Bankruptcy Code on May 15, 1995. At this time, although the Bankruptcy Court approved the debtors Plan of Reorganization (POR) in November, 1999, and the United States District Court for the Eastern District of Michigan upheld that approval in October of 2000, the POR is not final. Currently, at least six issues are on appeal to the 6<sup>th</sup> Circuit Court of Appeals. Because any liability for environmental releases from this Site would be grounded on alleged activities of the debtor prior to the filing date, any claim for damages would need to be filed as a claim in the Chapter 11 case.

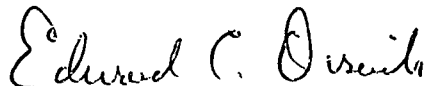
After a careful review of information available to Dow Corning Corporation, including the Dirty Inventory and the company's Eckhardt Report submission, the company is providing the enclosed Response to your Request for information. The

Deena Sheppard-Johnson  
Thomas Nash  
Chemical Recovery Systems Site  
General Notice of Liability

Eckhardt submission for the Carrollton, Kentucky facility did not include information on wastes sent to the Chemical Recovery Systems Site. The company has been unable to locate any other documents related to shipments of waste to this Site.

Dow Corning Corporation shall amend this submission if further information is discovered regarding disposal of materials at the Site. Should EPA have such information, and provide that information to the company, then Dow Corning shall review that and amend these Responses as necessary. You may contact me with any further information.

Cordially,

A handwritten signature in cursive script, reading "Edward C. Ovsenik".

Edward C. Ovsenik, Senior Attorney  
Litigation and Dispute Resolution  
Global Practice Group C01222

Enclosure

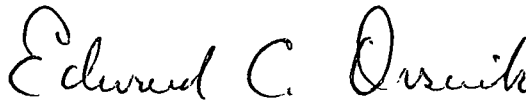
CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of Michigan  
County of Midland

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that the qualified personnel properly gathered and evaluated the information submitted.

Based upon my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Edward C. Ovsenik  
Senior Attorney



SIGNATURE

Sworn to before me this  
16<sup>th</sup> day of April, 2001



Notary Public



**1. Identify all persons consulted in the preparation of the answers to these questions.**

The following were consulted in the preparation of these responses:

Mr. Michael L. Nevin  
Director, Corporate Safety & Environment  
Dow Corning Corporation

Mr. James Mersereau-Kempf  
RCRA & Product Disposal Specialist  
Dow Corning Corporation

Mr. Charles D. Dennis  
Environmental Services Manager  
Carrollton Plant  
Dow Corning Corporation

Mr. John D. Romans  
Environmental Specialist  
Carrollton Plant  
Dow Corning Corporation

Mr. Robin Pitcher  
Environmental Program Director  
Dow Corning Corporation  
Barry, Vale of Glamorgan, Wales, UK

**2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these questions and provide copies of all such documents.**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. Dow Corning Corporation reviewed information provided by US EPA Region 5, titled Dirty Inventory, along with a copy of the Eckhardt Report submission for its Carrollton Plant from 1980. The Eckhardt Report submission did not include information on waste sent to the Site. The Dirty Inventory was relied on by Dow Corning as the best evidence in answering these questions.

**3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons.**

To the best of its information, knowledge, and belief, Dow Corning Corporation has no knowledge of other specific persons who could better respond to these questions.

**4. List the EPA Identification Numbers of the Respondent.**

Dow Corning Corporation's EPA Identification Number for its Carrollton, KY Facility is KYD042943985.

**5. Identify the acts or omissions of any person, other than your employees, contractors, or agents, that may have caused the release or threat of release of hazardous substances, pollutants, or contaminants and damages resulting there from at the CRS Site.**

Dow Corning Corporation has no specific knowledge of any such acts or omissions. To the extent any material sent to the Site by Dow Corning Corporation was sent under a purchase order, and not a contract, the owners, operators, and/or employees of Chemical Recovery Systems were not employees, agents, or contractors of Dow Corning Corporation. Dow Corning believes that acts or omissions by such owners, operators, or employees may have caused the release or threat of release of hazardous substances, pollutants, or contaminants at the CRS Site.

**6. Identify all persons including respondent's employees, who have knowledge or information about the generation, use, treatment, storage, disposal, or other handling of material at or transportation of materials to the Site (operating as Obitts Chemical Company or Chemical Recovery Systems, Inc., at 142 Locust Street, Elyria, Ohio).**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge, and belief, Dow Corning Corporation has no specific knowledge of any such generation, use, treatment, storage, disposal, or other handling of material at or transportation of materials to the Site (operating as Obitts Chemical Company or Chemical Recovery Systems, Inc., at 142 Locust Street, Elyria, Ohio).

**7. Describe all arrangements that Respondent may have or may have had with each of the following companies and persons:**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, Dow Corning Corporation believes that purchase orders would have

routinely been used for any such transactional arrangements with any of the following, however, no such records exist today.

- a. **Obitts Chemical Company**
- b. **Russell Obitts**
- c. **Chemical Recovery Systems, Inc.**
- d. **Peter Shagena**
- e. **James Freeman**
- f. **James "Jim" Jackson**
- g. **Donald Matthews**
- h. **Bob Spears**
- i. **Bill Bromley**
- j. **Carol Oliver**
- k. **Nolwood Chemical Company, Inc.**
- l. **Art McWood**
- m. **Chuck Nolton**
- n. **Michigan Recovery System, Inc.**

**8. Set forth the dates during which the Respondent engaged in any of the following activities:**

- a. **generation of hazardous materials which were sent to the CRS Site;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, Dow Corning Corporation believes that any generation of hazardous materials sent to the CRS Site would have occurred after the Company stopped using the Seymour Recovery Site in Seymour, Indiana during 1978. This time frame coincides with the "dirty inventory" list received from EPA Region 5 that indicates three shipments

from Dow Corning Carrollton Plant on November 26, 1979; December 26, 1979, and February 18, 1980.

**b. transportation of any material to the CRS Site.**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, Dow Corning Corporation believes it never transported materials to the CRS Site. Company practice had been to use commercial carriers and transport equipment.

**9. Identify all persons, including yourself, who may have arranged for disposal or treatment, or arranged for transportation for disposal or treatment, of materials, including, but not limited to, hazardous substances, at the CRS Site. In addition, identify the following:**

**a. The persons with whom you or such other persons made such arrangements;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the company has no information available to respond to this question.

**b. Every date on which such arrangements took place;**

The "dirty inventory" list received from EPA Region 5 indicates three shipments from Dow Corning Carrollton Plant on November 26, 1979; December 26, 1979, and February 18, 1980. Any arrangements for such shipments would likely have been made close to the actual shipping date.

**c. For each transaction, the nature of the material or hazardous substance, including the chemical content, characteristics, physical state (e.g., solid, liquid), and the process for which the substance was used or the process which generated the substance;**

The "dirty inventory" list received from EPA Region 5 indicates three shipments from Dow Corning Carrollton Plant on:

November 26, 1979	5,100 gallons of liquid toluene;
December 26, 1979	3,160 gallons of liquid waste heptane; and
February 18, 1980	5,713 gallons of liquid processed toluene.

The waste heptane was generated in a process at the Carrollton Facility which hydrolyzed chlorosilane intermediates. The toluene was likely produced as a result of cleaning process equipment during expansion efforts at the plant.

**d. The owner of the materials or hazardous substances so accepted or transported;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the Dow Corning Corporation would have owned the materials prior to their being loaded for shipment to the Site.

**e. The quantity of the materials or hazardous substances involved (weight or volume) in each transaction and the total quantity for all transactions;**

The "dirty inventory" list received from EPA Region 5 indicates three shipments from Dow Corning Carrollton Plant on:

November 26, 1979	5,100 gallons of liquid toluene;
December 26, 1979	3,160 gallons of liquid waste heptane; and
February 18, 1980	5,713 gallons of liquid processed toluene.

This provides a total of 10,813 gallons of toluene and 3,160 gallons of heptane for a total of 13,973 gallons.

**f. All tests, analyses, and analytical results concerning the materials;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the company has no information available to respond to this question.

**g. The person(s) who selected the CRS Site as the place to which the materials or hazardous substances were to be transported;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, Dow Corning Corporation believes that



purchase orders would have routinely been used for any such transactional arrangements with any of the following, however, no such records exist today.

**h. The amount paid in connection with each transaction, the method of payment, and the identity of the person from whom payment was received;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief the company has no knowledge of prices paid, method of payment, and the identity of the person from whom payment was received.

**i. Where the person identified in g., above, intended to have such hazardous substances or materials transported and all evidence of this intent,**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the company has no information available to respond to this question.

**j. Whether the materials or hazardous substances involved in each transaction were transshipped through, or were stored or held at, any intermediate site prior to final treatment or disposal;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the company has no information available to respond to this question.

**k. What was actually done to the materials or hazardous substances once they were brought to the CRS Site;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the company has no information available to respond to this question.

**l. The final disposition of each of the materials or hazardous substances involved in such transactions;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the company has no information available to respond to this question.

**m. The measures taken by you to determine the actual methods, means, and site of treatment or disposal of the material and hazardous substance involved in each transaction;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the company has no information available to respond to this question.

**n. The type and number of containers in which the materials or hazardous substances were contained when they were accepted for transport, and subsequently until they were deposited at the CRS Site, and all markings on such containers;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the company believes the shipments attributed to Dow Corning Corporation on the Dirty Inventory would likely have been bulk shipments in tank trailers.

**o. The price paid for (i) transport, (ii) disposal, or (iii) both of each material and hazardous substance:**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the company has no information available to respond to this question.

**p. All documents containing information responsive to a - o above, or in lieu of identification of all relevant documents, provide copies of all such documents;**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the company has no information available to respond to this question.

**q. All persons with knowledge, information, documents responsive to a - p above.**

Because the time frame involved is more than 15 years ago, many of the records maintained by Dow Corning Corporation have been destroyed under the appropriate records retention schedules. To the best of its information, knowledge and belief, the company has no specific information available to ascertain who might have knowledge, information, or documents responsive to questions a through p. Please see the response to question 1 for persons generally knowledgeable about waste disposal and reclamation activities at Carrollton Plant.

**10. Identify all liability insurance policies held by Respondent from 1960 to the present. In identifying such policies, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, non-sudden, or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.**

Dow Corning Corporation objects to this request as being overly broad. Further, Dow Corning Corporation filed for protection under Chapter 11 of the Bankruptcy Code on May 15, 1995. Although the Plan of Reorganization (POR) was approved by Judge Arthur J. Spector of the Bankruptcy Court in November 1999, and by Judge Denise Paige Hood of the US District Court for the Eastern District of Michigan in October 2000, the POR is on appeal to the United States Sixth Circuit Court of Appeals in Cincinnati, Ohio. Therefore, by its provisions, the POR has not become effective yet. All the requested financial information is on file with the Bankruptcy Court. Mr. Alan Tenenbaum, of the United States Department of Justice and Mr. John H. Wheeler, Office of Enforcement and Compliance Assurance, US EPA, should also be able to provide this information.

**11. Provide copies of all income tax returns, including all supporting schedules, sent to the Federal Internal Revenue Service in the last five years.**

Dow Corning Corporation objects to this request as being overly broad. Further, Dow Corning Corporation filed for protection under Chapter 11 of the Bankruptcy

Code on May 15, 1995. Although the Plan of Reorganization (POR) was approved by Judge Arthur J. Spector of the Bankruptcy Court in November 1999, and by Judge Denise Paige Hood of the US District Court for the Eastern District of Michigan in October 2000, the POR is on appeal to the United States Sixth Circuit Court of Appeals in Cincinnati, Ohio. Therefore, by its provisions, the POR has not become effective yet. All the requested financial information is on file with the Bankruptcy Court. Mr. Alan Tenenbaum, of the United States Department of Justice and Mr. John H. Wheeler, Office of Enforcement and Compliance Assurance, US EPA, should also be able to provide this information.

**12. If Respondent is a Corporation, respond to the following requests:**

Dow Corning Corporation filed for protection under Chapter 11 of the Bankruptcy Code on May 15, 1995. Although the Plan of Reorganization (POR) was approved by Judge Arthur J. Spector of the Bankruptcy Court in November 1999, and by Judge Denise Paige Hood of the US District Court for the Eastern District of Michigan in October 2000, the POR is on appeal to the United States Sixth Circuit Court of Appeals in Cincinnati, Ohio. Therefore, by its provisions, the POR has not become effective yet. All the requested financial information is on file with the Bankruptcy Court. Mr. Alan Tenenbaum, of the United States Department of Justice and Mr. John H. Wheeler, Office of Enforcement and Compliance Assurance, US EPA, should also be able to provide this information.

- a. **Provide a copy of the Articles of Incorporation and By-Laws of the Respondent.**
- b. **Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.**
- c. **Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.**
- d. **Identify the Parent Corporation and all Subsidiaries of the Respondent.**

**13. If Respondent is a Partnership, respond to the following requests:**

Dow Corning Corporation is not a Partnership; therefore, this question is not applicable to the company.

- a. **Provide copies of the Partnership Agreement;**

- b. Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission;**
- c. Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.**
- d. Identify all subsidiaries of the Respondent.**

**14. If Respondent is a Trust, respond to the following requests:**

Dow Corning Corporation is not a Trust; therefore, this question is not applicable to the company.

- a. Provide all relevant agreements and documents to support**
- b. Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.**
- c. Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.**

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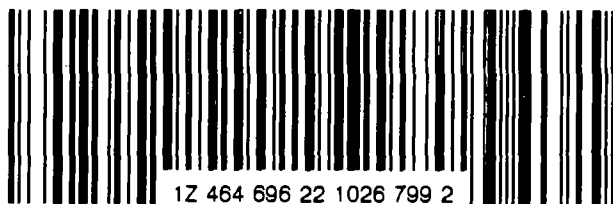
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